

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

**DAN MARTIN THOMAS,**

Plaintiff,

v.

No. 3:11-cv-1560-ST

**STATE OF OREGON, et al.,**

Defendants.

ORDER

**SIMON, District Judge.**

On January 30, 2012, the Honorable Janice Stewart, United States Magistrate Judge, filed Findings and Recommendation (“F & R”) (Dkt. 7). The matter is now before me pursuant to the Magistrates Act, 28 U.S.C. § 636(b)(1)(B), and Rule 72(b) of the Federal Rules of Civil Procedure. Under the Magistrates Act, the court may “accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3); *Dawson v. Marshall*, 561 F.3d 930, 932 (9<sup>th</sup> Cir. 2009). De novo review means that the court “considers the matter anew, as if no decision had been rendered.” *Dawson*, 561 F.3d at 933.

Petitioner has filed timely objections to Judge Stewart's recommendation that the court: (1) dismiss with prejudice *sua sponte* all claims against the following defendants: State of Oregon, Multnomah County Circuit Courts, Multnomah County District Attorney's Office, Multnomah County Jail, Portland Police Department, and Deputy District Attorney Robert J. Leineweber; and (2) dismiss without prejudice *sua sponte* defendants City of Portland, Brendan P. McGuire, and Detective Waddell, with leave to Plaintiff to amend the Complaint to allege facts sufficient to toll the two-year statute of limitations and to show compliance with the notice provision of the Oregon Tort Claims Act, Or. Rev. Stat. § 30.275. Petitioner objects on the ground that he does not know how to sue the State of Oregon or amend the complaint until the court appoints counsel to represent him *pro bono*.

After de novo review, the court finds no factual or legal error in the F & R. Accordingly, the court ADOPTS Judge Stewart's F & R (Dkt. 7). If Plaintiff believes that an Amended Complaint will cure the deficiencies identified in the F & R, Plaintiff may file his Amended Complaint on or before April 26, 2012. If an Amended Complaint is not filed by April 26, 2012, this case will be dismissed and judgment will be entered.

IT IS SO ORDERED.

Dated this 26th day of March, 2012.

/s/ Michael H Simon

Michael H. Simon  
United States District Judge